

Remarks

The limitation of claim 4 has been inserted into claim 1. Claim 4 has accordingly been canceled.

Claim 10 has been canceled.

Claims 5 and 11 have been amended to correct dependency.

Support may be found in the claims as originally filed, on page 2, first sentence of paragraph [0010], and on page 3, lines 9 and 10 of paragraph [0016]. No new matter has been added. Entry is requested.

The foregoing amendments are believed to overcome the objection to claim 10, the Section 112, first paragraph rejection of claims 1-3 and 6-13, and the Section 112, second paragraph rejection of claim 11. Withdrawal is requested

Claims 1-13 are rejected under 35 U.S.C. § 102(b or e) as being anticipated by Ortho, Jr. (USP 4,105,611), Boggs (USP 4,358,557), Morganelli (USP 5,454,909), Albrecht (USP 5,928,782), Haner et al. (USP 6,593,407), Chu et al. (USP 6,794,443), Morrison et al. (USP 7,019,060) or Haner et al. (US 2002/0146526).

Applicants disagree. Applicants' claimed invention is not anticipated by Ortho, Jr., Boggs, Morganelli, Albrecht, Haner et al. ('407), Chu et al., Morrison et al. or Haner et al. ('526).

Ortho is cited as disclosing hot melt adhesive (HMA), ethylene vinyl acetate (EVA), wax, modified rosin and tackifier in claim 1, where the tackifier is synthetic polyterpene (claim 9), and the wax may be a paraffin wax (cols. 3-4).

Ortho discloses EVA based HMAs applied at temperatures of between 250°F to 425°F (121°C to 218°C), with 375°F (190°C) being the preferred temperature (col. 3, lines 13-14). In contrast, applicants' claimed HMA is an ethylene n-butyl acrylate (EnBA) based HMA that is formulated for application at a temperature of less than about 110°C (230°F). Ortho is completely silent as to the use of any ethylene polymer other than EVA. Thus, Applicants' claimed invention cannot be anticipated by Ortho. Withdrawal is requested.

Boggs is cited as teaching HMA, EVA, aromatic hydrocarbon resin, rosin ester and paraffin wax.

Like the Ortho patent, Boggs is completely silent as to the use of any ethylene polymer other than EVA. As such, applicants' claimed EnBA HMAs cannot be anticipated by Boggs. Withdrawal is requested.

Morganelli is cited as reciting a HMA, polymers and tackifiers in claim 1, EVA in claim 8, wax in claim 11, ethylene polymers in claim 11, blends of tackifiers in col. 2, lines 49-66 and paraffin wax in col. 3, line 14.

Morganelli discloses HMA containing a base polymer selected from the group consisting of polyethylene, polypropylene, polybutene, EVA, ethylene-ethyl acrylate, ethylene acrylic acid, ethylene propylene copolymer, ethylene propylene butylenes terpolymers, styrene block copolymer and mixtures thereof (col. 2, lines 10-15 and 33-40). EVA is disclosed as being preferred. The HMAs of Morganelli are applied at temperatures in the 350°F – 400°F (176°C – 204°C) range (col. 4, lines 1-5). In contrast, applicants' claimed HMA is an EnBA based HMA that is formulated for application at a temperature of less than about 110°C (230°F). Morganelli is completely silent as to the use of any ethylene polymer other than EVA. Thus, Applicants' claimed invention cannot be anticipated by Morganelli. Withdrawal is requested.

Albrecht is cited as revealing HMA, EMA, EBA, blends of tackifiers and wax in claim 1, paraffin wax in claim 2 and trays, cartons or cases in claims 13-20.

Albrecht discloses HMA containing a copolymer of ethylene and methyl (meth) acrylate and a copolymer of ethylene and n-butyl (meth) acrylate. Application temperatures of 175°C (347°F), down to about 150°C (302°F) is taught. Albrecht fails to teach a HMA containing EnBA as the only ethylene polymer and fails to suggest any HMA that is formulated for application at temperatures less than about 110°C (230°F). As such, the claimed invention cannot be anticipated by Albrecht. Withdrawal is requested.

Haner ('407) is cited as divulging HMA and modified rosin (claim 1), wax (claim 3), ethylene copolymer (claim 5), EnBA (claims 6 and 7), paraffin wax (claim 10), EVA (claim 12), processes and methods (claim 15 and 16) and blends of rosin and terpene tackifier (col. 1, lines 47-55, col. 2, lines 41-48 and col. 4, lines 52-54).

Haner discloses HMA that contain EnBA and preferably also at least one additional ethylene

copolymer such as in particular EVA, and requires use of a modified rosin and/or modified terpene which as a molecular weight to softening point ratio of less than about 10 (col. 1, lines 38-45). Haner fails to disclose a HMA that can be applied at temperatures below 110° and which comprises ethylene n-butyl acrylate, a paraffin wax, a rosin derived tackifier and an aromatic tackier so as to anticipate the claimed invention. Withdrawal is requested.

Chu is cited as displaying HMA, EVA, 2-EHA (2-ethyl hexyl acrylate), paraffin wax and rosin tackifier in claim 1 and aromatic tackifier in claim 5.

Chu's HMA is based on EVA and/or 2-EHA. Chu fails to disclose a HMA comprising an EnBA copolymer, let alone a HMA that comprises EnBA as the only ethylene copolymer. As such, the claimed invention cannot be anticipated by Chu. Withdrawal is requested.

Morrison is cited as presenting HMA, EVA, terpene tackifiers and wax in claim 1, additional rosin tackifier in claim 5, articles in claim 14 and paraffin wax in col. 2, lines 53-54.

Morrison's HMA are based on EVA copolymers, in particular EVAs having a high vinyl acetate content. Morrison fails to disclose a HMA comprising an EnBA copolymer, let alone a HMA that comprises EnBA as the only ethylene copolymer. As such, the claimed invention cannot be not anticipated by Chu. Withdrawal is requested.

The published Haner '526 application is cited as being similar to the Haner '407 patent, but additionally discloses packaged articles using the HMA.

Applicants note that the disclosure of the Haner '526 publication is identical to the Haner '407 patent disclosure and represents the publication of the application that issued as the Haner '407 patent. This is clear from the face of this patent. The originally filed claims 15-19, as set forth in the patent publication being withdraw due to a restriction requirement and then subsequently canceled. Applicants comments set forth above with respect to the Haner '407 patent are hereby incorporated herein by reference.

Claims 1-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ortho, Jr. (USP 4,105,611), Boggs (USP 4,358,557), Morganelli (USP 5,454,909), Albrecht (USP 5,928,782), Haner et al. (USP 6,593,407), Chu et al. (USP 6,794,443), Morrison et al. (USP 7,019,060) or Haner et al. (US 2002/0146526). The Examiner urges that it would have been obvious to one skilled in the art to select

applicants' ingredients from a list of equivalents.

Applicants disagree. Applicants' claimed invention would not have been obvious to one of ordinary skill in the art from any of the Ortho, Boggs, Morganelli, Albrecht, Haner ('407 patent or '526 publication), Chu, or Morrison references.

None of the cited Ortho, Boggs, Morganelli, Albrecht, Chu or Morrison documents suggest a low application hot melt adhesive that comprises EnBA as the only adhesive polymer, and which contains a paraffin wax, a rosin derived tackifier and an aromatic tackifier. There is no disclosure that would suggest that the base polymers disclosed as being required for use in reference could be replaced with an EnBA copolymer. Haner also lacks sufficient disclosure that would suggest to one of ordinary skill in the art a hot melt adhesive that comprises EnBA as the only adhesive polymer, a paraffin wax, and which contains both a rosin derived tackifier and an aromatic tackifier as required in applicants claimed invention. Applicants' invention is not unpatentably obvious over any of the cited Ortho, Boggs, Morganelli, Albrecht, Haner, Chu or Morrison disclosures. Withdrawal is requested

Claims 1-13 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-16 of Haner *et al.* (U.S. Patent No. 6,593,407), claims 1-19 of Chu *et al.* (U.S. Patent No. 6,794,443) and claims 1-16 of the Morrison *et al.* (U.S. Patent No. 7,019,060). For the reasons set forth above, applicants submit that the claimed invention is not obvious over the Haner, Chu or Morrison patents.

Early and favorable action is requested.

Respectfully submitted,



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